<div align="center">REMARKS/ARGUMENTS</div>

The above-identified patent application has been reviewed in light of the Examiner's Action dated October 26, 2007. No Claims have been amended or canceled by this paper. Accordingly, Claims 1-3, 6-14, 16-26 and 28-34 are now pending. As set forth herein, reconsideration and withdrawal of the rejections of the claims are respectfully requested.

Claims 16-19 and 20-25 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. In particular, the Office Action states that Claims 16 and 20 recite an apparatus, however, the Office Action finds that the system would reasonably be interpreted by one of ordinary skill in the art as software per se. Applicants note that Claim 16 is in means function form, which requires that the recited "means for" be modified by functional language (MPEP §2818). Moreover, the structure associated with various of the recited means includes hardware components. In addition, in interpreting a means plus function claim, "the PTO may not disregard the structure disclosed in the specification corresponding to such [means plus function] language when rendering a patentability determination." (MPEP §2181, quoting In re Donaldson Co., 16 F.3d 1189, 29 USPQ2d 1845 (Fed. Cir. 1994)). Accordingly, the rejection under 35 U.S.C. § 101 of Claims 16-19 should be reconsidered and withdrawn.

Claim 20 recites various hardware components, including a controller that operates to perform various functions. As is known by those of ordinary skill in the art, a controller is a hardware component that can (but need not) execute software instructions. Moreover, the assertion in the Office Action that Applicants' invention is software per se is simply incorrect. For these reasons, the rejections of Claims 20-25 should also be reconsidered and withdrawn.

Claims 1-3, 6-7, 13-14, 16-18, 20-26 and 28 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,487,290 to Le Grand. In addition, Claims 8-12, 19 and 29-34 stand rejected under 35 U.S.C. § 103 as being unpatentable over Le Grand in view of U.S. Patent No. 5,506,898 to Constantini, et al. ("Constantini"). In order for a rejection under 35 U.S.C. § 102 to be proper, each and every element as set forth in a claim must be found, either expressly or inherently described, in a single prior art reference. (MPEP § 2131.) In order to establish a prima facie case of obviousness under § 103, there must be some suggestion or motivation to

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modify the reference or to combine the reference teachings, there must be a reasonable expectation of success, and the prior art reference or references must teach of suggest all the claim limitations (MPEP § 2143.) However, all of the claim elements cannot be found in the cited references, whether those references are considered alone or in combination. Accordingly, reconsideration and withdrawal of the rejections of the claims as anticipated by or obvious in view of the cited references are respectfully requested.

The claimed invention is generally directed to a method and system that balances resource loads for a plurality of service locations. More particularly, the claims recite the computation of a <u>relative probability</u> of servicing work requests for each service location included in a plurality of service locations. Work requests are then assigned to a service location based on the determined relative probabilities, allowing work to be efficiently routed. Moreover, the pending Claims generally require <u>determining a relative probability by calculating a number of opportunities to service the work request within a target time</u> by each service location included in the plurality of service locations.

The Le Grand reference is generally directed to call routing based on local status evaluation. More particularly, Le Grand discusses determining a queue wait time for a single response resource capable of responding to a call. (Le Grand, column 2, ll. 11-14.) Le Grand also mentions the possibility of utilizing figure of merit values that are representative of the probability of delay in servicing a call if the call were routed to a particular agent or queue. (Le Grand, column 4, ll. 22-25.) Le Grand explains that a figure of merit value indicative of a low probability of delay for routing to a particular queue would be basically analogous to a figure of merit value indicative of a short present queue wait. (Le Grand, column 4, ll. 25-29.) However, Le Grand does not teach, suggest or describe determining a probability that a service location will be able to service a work request within a target time by calculating a number of opportunities to service the work request within that target time. Indeed, there is no disclosure in Le Grand of the method by which the probability is calculated. Moreover, it is apparent from Le Grand's characterization of a Figure of merit value indicative of a low probability of delay as being "basically analogous to a . . . short present wait time" that there is in fact no relation

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between the probability of delay in Le Grand and a specified target time. Accordingly, reliance on Le Grand for purportedly disclosing these aspects of the claims is improper.

The only support in the detailed action that can be found for the position taken by the Office Action that the claimed number of opportunities is disclosed by Le Grand is the statement that "the shortest queue length is indicative of a number of opportunities" (Office Action of October 26, 2007, page 3, l. 15) with a cite to column 5, ll. 17-23 of Le Grand. However, that portion of Le Grand says nothing about a number of opportunities. Instead, it states that a poll response from a response location will typically represent the queue delay for the qualified agent at that location who currently has the shortest individual queue, and therefore the figure of merit poll response will be representative only of the qualified agent with the shortest queue. (Le Grand, column 5, ll. 17-23.)

Whether or not a short queue length is indicative of a number of opportunities, Le Grand contains no description of calculating a relative probability by calculating a number of opportunities to service a work request. Indeed, applying the reasoning of the Office Action to Le Grand, it would appear that Le Grand would have to first determine a probability, and then a number of opportunities. This is of course contrary to the pending Claims, which require that the probability be determined from a number of opportunities. In addition, the fact remains that Le Grand does not disclose calculating a number of opportunities. Therefore, the rejections of Claims 1-3, 6-7, 13-14, 16-18, 23, 26 and 28 as being anticipated by Le Grand is improper, and should be reconsidered and withdrawn.

The Costantini reference is cited in the Office Action for using an average rate of advance in determining the estimated wait time in a queue. Although Costantini does discuss determining a wait time for an item in a particular queue, there is no disclosure of a target time or a relative probability for a service location that is determined by calculating a number of opportunities to service a work request within a target time at a service location in the Costantini reference. Accordingly, even if the Costantini reference were combined with Le Grand, each and every element of the pending claims is not taught, suggested or described by the prior art. Accordingly, the rejections of Claims 8-12, 19 and 29-34 as obvious should be reconsidered and withdrawn.
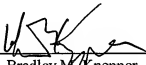
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Applicants note with appreciation the Examiner's indication that the Independent Claims would be allowable if the subject matter of Claims 8 and 12 were incorporated into the Independent Claims. Claims 8 and 12 specify equations used in calculating the number of opportunities to service work within the target time recited by the Independent Claims. Accordingly, applicant agrees that Claims 8 and 12 are clearly allowable. However, the Examiner's comments regarding these Claims highlight the allowability of the Independent Claims in their present form. In particular, the cited references make no mention of calculating a number of opportunities, much less provide an equation for such a calculation. Moreover, Applicants note that Claims 8 and 12 should be indicated as being allowable.

The application now appearing in form for allowance, early notification of same is respectfully requested. The Examiner is invited to contact the undersigned by telephone if doing so would be of assistance.

Respectfully submitted,

SHERIDAN ROSS P.C.

By: _____

Bradley M. Knepper
Registration No. 44,189
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141
(303) 863-9700

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